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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,360	12/12/2003	Peter Blechman	8090-1	2816
22150	7590	08/28/2006	EXAMINER	
F. CHAU & ASSOCIATES, LLC 130 WOODBURY ROAD WOODBURY, NY 11797			MORGAN JR, JACK HOSMER	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 08/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/734,360

Applicant(s)

BLECHMAN, PETER

Examiner

Jack H. Morgan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2,5-16,19 and 20 is/are rejected.
- 7) ☒ Claim(s) 3,4,17 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/12/2003.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the grooves of claim 9 and the slots of claim 10 must be shown or the features canceled from the claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claims 2 and 16 are objected to because of the following informalities: They contain the term “d1” in the claim. The term “d1” is objected to because it refers to the prior art instead of the claimed invention. Appropriate correction is required.
3. Claims 3 and 17 are objected to because of the following informalities: They contain the term “d2” in the claim. The term “d2” is objected to because it refers to the prior art instead of the claimed invention. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term “transverse” in claim 14 is used by the claim to mean either “out

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of" or "perpendicular to", while the accepted meaning is "across." The term is indefinite because the specification does not clearly redefine the term.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 5, 6, 7, 8, 9, 11, 13, 14, 15, 16 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by King (US 4,746,042). King discloses a tool holder (Figure 2, 10) comprising a guide plate with tapered edges and perpendicularly extending sidewalls (16). He also discloses a mounting portion (13) connected to the guide plate at the end portion where the tapered edges converge. The mounting portion comprises a mounting plate parallel with the guide plate, and offset. It is capable of receiving a spring clip.

Regarding claims 5 and 6, King discloses the ability to manufacture the tool holder out of both plastic and metal. (Col 3, lines 64-66)

Regarding claims 7, 8 and 9, King discloses a mounting device to mount the tool to a belt (Fig 6). He shows using a spring clip (Fig 3, 17 also Col 4, line 7), as well as using a groove (Fig 4, 41 also Col 4, line 19).

Regarding claim 11, the ability to mount the tool holder onto a belt makes the belt into a tool belt.

The limitations of claims 13, 14, 15 and 16, King discloses a tool holder which comprises a guiding portion and a mounting portion, with the guiding portion having a tapered shape as well as perpendicular side walls on those tapered edges, which come together at the same end as the mounting portion. The mounting plate is offset from the guide plate as well as being substantially parallel to it.

Regarding claim 20, King discloses the ability to mount the tool to a belt (Fig 6).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10, 12 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over King (US 4,746,042) in view of Rutty (4,757,927). King discloses all the limitations of the claims with the exception of a mounting device comprising slots for inserting a belt, and a tape measuring holder device. Rutty has a tape measure holding device (Fig 10) with two parallel slots (46) that allow the tape measure holder to be mounted on a belt. (Fig 9, Col 4 line 54-55) Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to configure the tool holder of King

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with parallel slots of Ruddy in order to mount the holder on a belt. In addition, it would have been obvious to one of ordinary skill at the time the invention was made to attach a tape measure to the tool holder of King.

Allowable Subject Matter

7. Claims 3-4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 17-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Markiewicz (US D388,955), Sloat (US 882,178), Inwood (US 3,516,585) and Lecher, Sr. (US 4,619,020).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack H. Morgan whose telephone number is 571-272-3385. The examiner can normally be reached on M-Th 8-6.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jack Morgan
Art Unit 3727
August 21, 2006


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER